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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Toll Free Service Access Codes

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CC Docket 95-155

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REPLY COMMENTS OF
THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

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November 20, 1995

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MISSION

In the Matter of)
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Toll Free Service Access Codes) CC Docket 95-155

REPLY COMMENTS OF THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA"), by its attorneys, hereby submits its reply comments with respect to the Notice of Proposed Rulemaking in the above-captioned docket.¹ As PCIA explained in its opening comments, it urges the Commission to forego intrusive regulation of toll-free resources in favor of setting forth basic overall policies and working with industry committees and other bodies to plan for the smooth transition to the 888 and future toll-free service access codes ("SACs"). Such guidelines would ensure that toll-free numbering resources remain

¹ FCC No. 95-419 (Oct. 5, 1995) ("*Notice*"). Opening comments were due on November 1, 1995, and well over 100 parties made opening round submissions in response to the Commission's proposals. Despite the volume of comments and the diverse positions taken by interested parties on a number of issues, the Commission declined to lengthen the two-week reply period. *Order*, DA 95-2337 (Nov. 13, 1995). *See* The Personal Communications Industry Association Request for Extension of Time for the Filing of Reply Comments, CC Docket No. 95-155 (filed Nov. 7, 1995).

These reply comments originally were due on November 15, 1995. The Commission was closed from November 14, 1995 to November 19, 1995. Pursuant to FCC Public Notice, "FCC Announces Shutdown Procedures" (Nov. 13, 1995), these reply comments are being submitted on the day the Commission reopens after the shutdown.

fully available, without arbitrary or competition-impeding restrictions, for wireless carriers and other telecommunications providers.

I. SUMMARY

In the *Notice* in this proceeding, the Commission sought comment on a wide variety of proposals to address the efficient allocation of toll-free resources and to regulate the implementation of future toll-free SACs. PCIA is concerned, as indicated in its comments, that the *Notice* presumes the need for intensive Commission regulation of toll-free resources. The opening comments of other parties support PCIA's conclusion that overly intrusive Commission regulation of toll-free resources is unnecessary and may in fact impede the market-driven delivery of toll-free services.

The Commission's primary goal in this proceeding should be to establish certain basic precepts to govern the usage and addition of toll-free SACs, while allowing the industry to retain primary implementation authority for toll-free numbers. In this regard, PCIA reaffirms its view that the Commission should take no measures to encourage or coerce the use of personal identification number ("PIN") technology for certain toll-free service providers, including paging providers. PCIA agrees with those commenters who concluded that such a proposal is unnecessary and discriminatory, and would encourage a technically inferior product.

Similarly, PCIA strongly opposes any proposal to partition SACs in order to protect the rights of existing "vanity" number holders. The record demonstrates that

relegating paging operators and other toll-free users to particular access codes is not compelled by technical or policy reasons, may be infeasible to implement in light of current use of the 800 SAC by all types of users, and would discriminate against particular providers. The Commission likewise should not implement a broad-based "right of refusal" option, either for vanity number holders or for all current subscribers to the 800 SAC. Instead, PCIA agrees with numerous other commenters who concluded that less drastic steps can be taken at this time to protect the rights of vanity number holders through reliance on trademark law.

PCIA urges the Commission to focus its efforts on minimizing the need for government oversight by ensuring that procedures are in place to assure a smooth transition to new toll-free SACs. To this end, PCIA generally supports efforts to reduce practices that impede a market-driven allocation of toll-free numbers. However, the industry's recent experience with the usage of 800 numbers and implementation of the 888 SAC resulted from an unexpected confluence of events that should not be repeated, particularly if appropriate guidelines are adopted in this docket. Thus, sweeping regulation is not required to address hoarding and warehousing of toll-free numbers. Finally, PCIA believes that certain time intervals for toll-free number processing may be shortened to a limited extent, without substantially increasing the risk of misdialed numbers, while taking into account legitimate technical and business considerations (such as seasonal operation).

II. THE RECORD SUPPORTS THE CONCLUSION THAT SWEEPING REGULATION OF TOLL-FREE RESOURCES IS UNNECESSARY AND THAT THE COMMISSION'S PRIMARY FOCUS SHOULD BE TO ENSURE THAT APPROPRIATE INDUSTRY BASED MECHANISMS ARE IN PLACE TO GOVERN TOLL-FREE NUMBER ALLOCATION

PCIA is gravely concerned that the detailed regulatory structure reflected in the *Notice* is based on a faulty assumption -- that extensive Commission intervention in toll-free number allocation and implementation activities is required. PCIA maintains that the current scarcity problems associated with the 800 toll-free code resulted primarily from a lack of adequate planning and a failure to anticipate new offerings and associated demand. The imminent availability of several additional toll-free SACs should eliminate current concerns about number scarcity. This fact, along with the lessons learned in recent months concerning the use of 800 numbers and the implementation of the 888 SAC, obviates the need for intrusive governmental regulation. PCIA therefore urges the Commission, working in conjunction with industry, to focus its efforts to ensure a smooth transition to the 888 SAC and on ensuring the future availability of toll-free numbers.²

A number of other commenters joined PCIA in questioning the premise that intrusive regulation is needed, and they likewise urged the Commission to take a less expansive role in regulating toll-free resources.³ These commenters generally agreed

² See Comments of PCIA at 4, 6.

³ See, e.g., Comments of AirTouch Paging at 3 ("AirTouch supports a more
(continued...)

with PCIA's assessment that the problems experienced in the 800 SAC resulted from a combination of high market demand for innovative, competitive uses that were not fully anticipated and an artificial scarcity of toll-free numbers.⁴ Similar problems can be avoided in the future by proper planning and enforcement of industry guidelines.⁵

Moreover, commenters generally sought to limit the regulatory burden of the Commission's proposals, and instead encouraged the use of simple industry guidelines

³(...continued)

limited regulation of toll free SACs by the Commission in certain circumstances"); Comments of Pacific Bell and Nevada Bell at 1 ("[a]s a preliminary matter, we question the need for many of the procedures the Commission suggests in view of the market demand for 800 service"); Comments of USTA at 3 ("the Commission should limit its involvement to the necessary minimum").

⁴ See, e.g., Comments of CompTel at 2 (explaining that the proliferation of new toll-free services and corresponding increased demand for such numbers caused the rapid depletion of the 800 SAC); Comments of Paging Network, Inc. at 2 ("[t]he present 800 number crisis is not a matter of number scarcity, it is a matter of the industry's failure to make necessary computer software and other necessary system upgrades on a timely basis"); Comments of USTA at 2 (noting that the Commission must eliminate the perception of scarcity and the "associated 'Gold Rush' mentality regarding toll-free numbers").

⁵ See, e.g., Comments of AirTouch Paging at 4-6 (emphasizing the importance of adequate planning and noting that existing rules should be adequate to manage the transition from 800 to 888); Comments of BellSouth at ii (noting that specifics of toll-free service provisioning should be left primarily to industry fora); Comments of Paging Network, Inc. at 5 (stating that requiring software upgrades will allow for adequate planning and avoid another "artificial gap" in the availability of toll-free numbers); Comments of Southern New England Telephone Co. at 17 (emphasizing that the Commission must rely on industry resources to manage the toll-free number marketplace, rather than complex and burdensome federal control); Comments of Sprint at 11-12 (explaining that adequate planning should obviate the need for special reservation procedures in subsequent access codes beyond 888); Comments of USTA at 3 (stating that industry consensus rules should determine the appropriate use of toll-free numbers).

and market mechanisms to promote the efficient use of toll free numbers.⁶ PCIA strongly agrees that market forces will best foster the most efficient, productive use of toll-free numbers, given an adequate supply of toll-free numbers.⁷ U S West aptly summarized this view by urging that the Commission "not overreact to the current situation surrounding the exhaust of the 800 toll free code" and emphasizing that "[a] small amount of regulatory focus and a few simple guidelines will be sufficient to avoid future administrative issues."⁸

A significant number of commenters agreed that the Commission's proposals are not only overly intrusive, but highly burdensome as well. For example, several parties concurred in PCIA's conclusion that the Commission's proposed circuit breaker models are unduly complex and the allocation of toll-free numbers instead can be addressed through simpler industry guidelines.⁹ In addition, commenters agreed that the

⁶ See, e.g., Comments of BellSouth at 21; Comments of CompTel at 9; Comments of GTE Service Corporation at ii; Comments of Pacific Bell and Nevada Bell 18-19; Comments of Paging Network, Inc. at 3; Comments of U S West at 1; Comments of USTA at 3, 9, 14.

⁷ See, e.g., Comments of Paging Network, Inc. at 4; Comments of U S West at 32; Comments of USTA at 14.

⁸ Comments of U S West at ii. See also Comments of USTA at 9.

⁹ See, e.g., Comments of BellSouth at 19; Comments of CompTel at 17; Comments of Paging Network, Inc. at 15.

Commission's proposed escrow requirement would add unnecessary cost to the toll-free number assignment process without any concomitant benefit.¹⁰

Therefore, to the extent that the Commission decides that additional oversight of toll-free resources is appropriate, it should adopt a lighthanded approach, using guidelines and industry cooperation, rather than regulatory mandates to foster market-driven assignment of toll-free numbers and to implement transition procedures for subsequent toll-free codes.¹¹ As BellSouth recommended, "the FCC's efforts should not add significant administrative burdens on the industry through micro-management of the toll-free resource allocation process."¹²

¹⁰ See, e.g., Comments of 800 Users Coalition at 4-5; Comments of BellSouth at 4; Comments of GTE at 2; Comments of Pacific Bell and Nevada Bell at 3.

¹¹ As indicated in its opening comments, PCIA believes that any existing problems with warehousing and hoarding are associated with the current environment involving 800 number allocation and the transition to the 888 SAC -- an assessment that received support from other parties. Comments of Cable and Wireless at 11 (explaining that additional warehousing controls would only be required for the first two months after the 888 becomes available); Comments of MCI at 8-9 (explaining that existing industry guidelines adequately discouraged warehousing before conservation measures were imposed); Comments of Pacific Bell and Nevada Bell at 9 (urging the Commission to forego imposing warehousing remedies until it determines whether "RespOrgs acted intentionally to cause the shortage of numbers"); Comments of Paging Network, Inc. at 12 (stating that additional regulation of warehousing is not required so long as the Commission assures the availability of additional toll-free numbers). Access to the Commission's complaint procedures should be sufficient for resolving any future instances of inappropriate warehousing and hoarding.

¹² Comments of BellSouth at 21.

III. THE COMMISSION MUST ENSURE THAT ANY TOLL-FREE SERVICE REGULATION TREATS PAGING PROVIDERS FAIRLY AND DOES NOT DISCRIMINATE AGAINST THEM BY REQUIRING OR COERCING THE USE OF PIN TECHNOLOGY

PCIA reiterates its strong opposition to any effort by the Commission to encourage or coerce the use of PIN technology for certain toll-free service providers, where such use is not driven by market demand.¹³ As indicated in its initial comments, PCIA believes that any attempt to mandate PIN technology, even where characterized as "encouragement," would be misguided because it would serve to substitute the Commission's judgment for that of the marketplace and would result in the deployment of a technically inferior product.¹⁴ Moreover, the Commission's proposal to encourage PIN technology deployment only for certain "low use" service providers is especially troubling because it proceeds from the erroneous assumption that such lower volume uses are somehow less valuable. As such, the proposal would unjustly discriminate against these providers.¹⁵

PCIA's conclusion that encouraging the use of PIN technology by certain providers would be unfairly discriminatory was supported by a number of the

¹³ Comments of PCIA at 8.

¹⁴ *Id.* at 9.

¹⁵ The burdens of a coercively encouraged PIN dialing plan apparently would fall most heavily on the paging industry. Southwestern Bell makes the unsupported assertion that some paging companies are tying up "huge banks" of toll-free numbers to meet their business needs. Comments of Southwestern Bell at 7-8. To the best of PCIA's knowledge, paging companies, as subscribing customers to 800 service, are obtaining numbers of full compliance with the Commission's generally applicable rules.

commenting parties.¹⁶ MCI described the Commission's proposed policy as in effect identifying "certain numbers or certain services as being less worthy of having a toll free number."¹⁷ PCIA strongly endorses MCI's conclusion that "[t]he fact that a number may have little use per month does not make it less important than a high volume use."¹⁸ From a practical standpoint, as Ameritech explained in its comments, "any definition [of 'low use'] is bound to be arbitrary" and is further complicated by "the need to consider seasonal variations in the uses of toll free numbers."¹⁹

Among the commenters that addressed the Commission's PIN proposal, many agreed with PCIA that regulatory-mandated PIN technology would limit customer access to advanced services and present technical and business problems.²⁰ For

¹⁶ See, e.g., Comments of Ameritech at 14; Comments of MCI at 6-7; Comments of Paging Network, Inc. at 8-9.

¹⁷ Comments of MCI at 7.

¹⁸ *Id.* See also *id.* ("[a]s a matter of public policy, the FCC should not get involved in making judgment on the value of calls made to toll-free numbers"); Comments of Paging Network, Inc. at 8 ("the Commission is not in a position to judge the value of a use of a telephone number for either personal or business use, even assuming it was possible to separate out those two uses").

¹⁹ Comments of Ameritech at 14.

²⁰ See, e.g., Comments of Americas Carrier Telecommunications Association at 11-12; Comments of Ameritech at 13-14; Comments of BellSouth at 8; Comments of LCI International, Inc. at 6-7; Comments of LDDS WorldCom at 6; Comments of NYNEX at 3-4; Comments of Pacific Bell and Nevada Bell at 5-6; Comments of Paging Network, Inc. at 7; Comments of Sprint at 6-7; Comments of Telco Planning Inc. at 3; Comments of U S West at 9-11.

example, AirTouch explained that PIN technology would be inferior in the paging context because certain PIN-based paging services are "incompatible with the use of SS7 technology to provide certain enhanced paging features and services; [would] create user inconvenience and technical complications by requiring extra digits to be dialed; and [would] result in less efficient use of the Public Switched telephone network."²¹ BellSouth and other carriers also explained that encouraging PIN technology interferes with the Commission's goal of number portability and that the SMS/800 database system would require modification in order to differentiate toll-free numbers that use PIN technology from all other toll-free numbers.²²

The few commenters who did support encouraging the use of PIN technology themselves advocated that PIN applications should be encouraged by market demand, and acknowledged the problems associated with a PIN dialing system.²³ A few

²⁰(...continued)

At the same time, some paging operators or other toll-free number users may decide that PIN technology in fact is feasible or desirable in the context of their particular usage. That decision, however, would be the result of rational business decision-making, and should be left up to the users of toll-free numbers without being governed by a regulatory directive. *See, e.g.,* Comments of OPASTCO at 10-11.

²¹ Comments of AirTouch Paging at 15.

²² *See* Comments of Ameritech at 13; Comments of BellSouth at 7-8; Comments of NYNEX at 4; Comments of U S West at 10-11. BellSouth also pointed out that the Commission's PIN proposal is potentially inconsistent with the Commission's directive that "The Number Administration and Service Center (NASC) be capable of initiating RespOrg changes without participation by the 'losing' RespOrg." *In the Matter of Provision of Access For 800 Service*, 8 FCC Rcd 1844 (1993).

²³ *See* Comments of AT&T at 11-12; Comments of MCI at 6-7; Comments of MFS, Inc. at 6; Comments of Southern New England Telephone at 9.

commenters supported the concept of requiring that paging service providers use PIN technology; these commenters simply ignored the aforementioned competitive and technical problems with such a requirement and disregarded the Commission's own conclusion that a PIN "requirement" was not feasible.²⁴ In addition, these commenters proceeded from the questionable belief that PIN technology is necessary to control the allocation or efficient use of toll-free numbers. In fact, as Time Warner Communication Holding, Inc. stated, "[a]s it stands now, there is no evidence to indicate that the use of PINs is efficient in limiting the growth of 800 numbers."²⁵ In addition, the timely implementation of additional toll-free SACs should provide access to the necessary volume of numbers in order to meet public demand.

In sum, the record supports a conclusion that the "use of PIN technology should be voluntary for toll-free service providers and subscribers to toll-free number services."²⁶ Service providers should be free to adopt PIN technology where consistent with their business operations. Mandating the use of PIN technology, however, whether directly or indirectly, will interfere with the development of

²⁴ See Comments of 800 Users Coalition at 7; Comments of QWest Communications Corporation at 4; Comments of Vanity International at 4.

²⁵ Comments of Time Warner Communication Holding, Inc. at 4. See also Comments of Sprint at 7 ("PIN technology does not necessarily ensure the more intensive use of toll free codes").

²⁶ Comments of Pacific Bell and Nevada Bell at 6. See also Comments of Ameritech at 13-14; Comments of BellSouth at 8; Comments of LCI International, Inc. at 6-7; Comments of NYNEX at 3-4; Comments of Paging Network, Inc. at 7; Comments of Sprint at 6-7; Comments of Telco Planning Inc. at 3; Comments of U S West at 9-11.

innovative services designed to meet business and consumer needs. As such, the proposal runs counter to many of the Commission's recent efforts to foster service innovation and competition to the benefit of the public.

IV. THE COMMISSION SHOULD NOT PARTITION TOLL-FREE ACCESS CODES TO PROTECT VANITY NUMBER HOLDERS OR FOR ANY OTHER REASON

The *Notice* proposed various mechanisms for protecting "vanity numbers" now used in the 800 SAC in subsequent toll-free SACs. One possibility raised by the Commission was to "leav[e] business entities and the majority of vanity number holders to use the 800 code and assign[] a specific toll free code to subscribers for personal and pager use."²⁷ In its opening comments, PCIA opposed any effort to relegate paging and/or other classes of toll-free number users to a separate SAC.²⁸ In addition, PCIA voiced concern that proposals for protecting existing toll-free numbers were ill-defined and threatened to interfere with efficient allocation of current and future toll-free resources.²⁹

The record embodied in the opening comments underscores many of PCIA's concerns. A number of commenters, like PCIA, opposed any proposal that partitions service access codes and relegates certain providers to potentially less desirable service

²⁷ *Notice*, ¶ 46.

²⁸ Comments of PCIA at 12-13.

²⁹ *Id.* at 11-12.

access codes.³⁰ Other commenters shared PCIA's position that such a plan is unreasonable because it is not compelled by technical or capacity concerns and it would be discriminatory for the reasons stated by the Commission in the *Ameritech Order*.³¹ The comments also outlined the very real problems that would be involved in implementing such a partitioning plan at this time, given the fact that all toll-free users currently access only the 800 SAC.³² Confusion, misdialed calls, and disruption of existing services and operations would be a certain result of efforts to achieve a partitioning plan that is of questionable value.

The relatively few commenters who supported a partitioning proposal to protect vanity number holders erroneously assumed that certain toll-free numbers are less valuable and failed to consider the discriminatory nature of such a proposal.³³ For

³⁰ See, e.g., Comments of AirTouch Paging, Inc. at 13-14; Comments of Bell Atlantic at 19; Comments of MCI at 7-8; Comments of Pacific Bell and Nevada Bell at 14; Comments of Paging Network, Inc. at 15; Comments of Unitel Communications, Inc. at 4.

³¹ *In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan by Ameritech - Illinois*, 10 FCC Rcd 4596 (1995) ("*Ameritech Order*"). As discussed in the *Ameritech Order*, the Commission has consistently expressed the need for technology- and service-neutral number policies. See also *In the Matter of Administration of the North American Numbering Plan, Report and Order*, CC Docket 92-237, FCC 95-283 (July 13, 1995). See, e.g., Comments of AirTouch Paging, Inc. at 13-14; Comments of Bell Atlantic at 19 (citing *Ameritech Order*); Comments of Paging Network, Inc. at 15.

³² See, e.g., Comments of AirTouch Paging, Inc. at 13 (¶ 20); Comments of Bell Atlantic at 9; Comments of Unitel Communications, Inc. at 4.

³³ See 1.800.Balloon Letter at 1-2; Comments of 800 Users Coalition at 14; Comments of Applied Anagramics, Inc. at 1; Comments of Communications Managers Association at 1; Comments of Vanity International at 4-5.

example, the 800 Users Coalition proposed a partitioning solution as a means to achieve quick deployment of additional toll-free numbers.³⁴ Contrary to this position, however, PCIA believes that the deployment of subsequent codes and partitioning are unrelated issues and that new SACs can be deployed without the discriminatory effect of partitioning. Furthermore, the 800 User Coalition's proposal to "grandfather" existing 800 numbers regardless of service type does not remedy the discriminatory impact of partitioning on new users and would only foster the type of customer confusion and technical problems that the 800 Users Coalition purportedly seeks to prevent. The partitioning proposals advanced by other commenters similarly fail to advance any compelling justification for such a solution and do not address the substantial costs such a solution might entail.³⁵

Beyond the partitioning proposal, the record illuminates the anticipated difficulty in defining the scope of vanity number protection and the proper enforcement remedies.³⁶ Estimates of the total quantity of working "vanity" numbers that should

³⁴ Comments of 800 Users Coalition at 9.

³⁵ *See, e.g.*, Comments of Communication Managers Association at 1; Comments of Service Merchandise Company at 7; Comments of Telco Planning, Inc. at 4; Comments of Vanity International at 3-4.

³⁶ *See, e.g.*, Comments of 800 Users Coalition at ii-iii (advocating partitioning and granting "sensitive" 800 numbers a right of first refusal); Comments of Ameritech at 30 (noting that estimating the quantity of vanity numbers is "virtually impossible" because the scope of vanity numbers is "so broad and so subjective"); Comments of BellSouth at 15 (opposing a right of first refusal); Comments of Cable and Wireless at 5 (favoring a right of first refusal for all existing 800 numbers); Comments of Hertz Corporation at 1 (proposing that "high-volume, long-standing 800 toll-free service numbers" should be allowed a right of first refusal).

be protected ranged from 6 percent to 25 percent of the available numbers in each code.³⁷ Moreover, numerous different commenters, all beginning from the Commission's basic proposal, each offered different formulations as to which vanity numbers should be protected.³⁸ This disparity underscores PCIA's previously discussed concerns about the vagueness of the proposed vanity number definition, since these estimates obviously reflect widely varying interpretations of the scope of the definition.

In some cases, recognizing the definitional problems inherent in the Commission's proposal, several commenters urged the Commission to grant protection

³⁷ See Comments of 800 Users Coalition at 17 (stating that 5 percent to 6 percent of existing 800 numbers require regulatory protection); Comments of Alliance for Telecommunications Industry Solutions at 17 (SMS/800 Number Administration Committee ("SNAC") survey of 4,745,514 numbers indicated that 24 percent were identified as vanity numbers); Comments of NYNEX at 7 (estimating that 25 percent of the total available numbers in each code would be requested); Comments of Sprint at 18 (survey of current 800 SAC users indicates that 25 percent of all working 800 numbers would be requested). Estimates of 25 percent represent close to two million requests for the same 800 and 888 numbers. Comments of NYNEX at 7. Commenters and PCIA agree that such a significant pool of protected numbers raises concerns about depletion and efficient use of toll-free numbers. See, e.g., Comments of AT&T at 25.

³⁸ See Comments of 800 Users Coalition at 14 ("[t]he only numbers of crucial importance, however, are the few that are widely publicized for use in marketing and high volume call center applications"). Cf. Comments of Avery Dennison Corp. at 1; Ingersoll-Rand Letter at 1; Lifescan, Inc. Letter at 1; Comments of Nabisco at 1; Comments of National General Insurance at 1; Comments of Roadway Information Technology, Inc. at 1 (urging the Commission to protect "customers who have existing 800 numbers that are widely known, accepted and used by consumers."); Comments of Service Merchandise at 1 (proposing a threshold definition of a "significant user" that would be entitled to a comparable number in the 888 SAC).

(*e.g.*, a first right of refusal) to *all* existing toll-free numbers.³⁹ PCIA strongly opposes the adoption of any such blanket right of first refusal. While perhaps administratively simple, such a plan risks tying up valuable toll-free resources and assures inefficient allocation and use of such numbers.

Even if the Commission were successful in narrowing its definition of vanity numbers, it would face a tremendous administrative burden in enforcing the rights of vanity holders. A significant number of commenters shared PCIA's reservations about granting an absolute or limited right of first refusal, and opposed any right of refusal protection plan.⁴⁰ Aside from generating numerous disputes about whether a particular number is to be protected (disputes which are likely to be time and resource-consuming for the Commission), another set of regulatory requirements likely would be required. Mechanisms would be needed, for example, to ensure that subsequent toll-free numbers claimed by vanity number holders are being used. Otherwise, the protection afforded vanity number holders would undermine the efficient allocation and use of toll-free resources.

³⁹ See, *e.g.*, Comments of Ameritech at 31; Comments of Cable and Wireless at 5; Comments of CompTel at 13; Comments of Direct Marketing Association at 12.

⁴⁰ See, *e.g.*, Comments of AirTouch Paging at 14; Comments of Bell Atlantic at 8; Comments of BellSouth at 15; Comments of NYNEX at 8; Comments of Pacific Bell and Nevada Bell at 10-12; Comments of Paging Network, Inc. at 13; Comments of Southern New England Telephone Company at 12; Comments of Sprint at 20; Comments of Unitel at 3; Comments of U S West at 18; Comments of USTA at 4-5.

PCIA believes that, if any protection is to be afforded to vanity number holders, there are much simpler mechanisms available. For example, the Commission could conclude that trademark law adequately protects existing vanity numbers.⁴¹ Reliance on trademark law provides users with a developed body of law and a clearer definition of the scope of legal protection than would exist under a Commission first right of refusal. Moreover, this approach would substantially relieve the Commission of the enormous administrative burden of enforcing a distinct protection scheme.

PCIA reiterates its strong opposition to any partitioning solution to protect the rights of vanity number holders. To the extent vanity number protection is required, neither partitioning nor the grant of a right of refusal to existing vanity number holders would be consistent with effective and efficient toll-free number allocation and likely would unnecessarily consume large amounts of limited Commission resources.

V. THE RECORD SUPPORTS THE COMMISSION'S CONCLUSIONS THAT CERTAIN NUMBER PROCESSING INTERVALS MAY BE SHORTENED

In its opening comments, PCIA generally concurred with the Commission's conclusion that certain number processing intervals may be shortened to a limited extent. Specifically, PCIA advocated that: (1) the time period in which a number may remain in reserved status may be shortened to 45 days; and (2) the time period that a

⁴¹ See, e.g., Comments of Bell Atlantic at 7; Comments of BellSouth at 17; Comments of CTA at 13; Joel DeFabro Letter at 1; Comments of GTE at 9-10; Comments of Paging Network, Inc. at 14; Comments of QWest Communication at 7-8; Comments of Sprint at 21.

number can be assigned, but not working, may be reduced to six months.⁴² With respect to the Commission's proposals to reduce the toll-free number "aging" time intervals, PCIA suggested that the Commission may: (1) reduce the time in which a number may be reassigned after it has been disconnected or canceled to four months; and (2) reduce the time period that a number may remain "suspended", but not reactivated, to six months.⁴³ At the same time, PCIA explained that reducing these time intervals any further would frustrate both toll-free users and service providers, since providers may not have adequate opportunity to supply toll-free services, callers may not have adequate opportunity to alter current calling patterns, and a large number of misdialed calls could result.

Other commenters agreed with PCIA's position with respect to shortening the time period that a number may remain in "reserved" status and the time period that a number can remain assigned, but not working. As AT&T suggested, a 45 day reservation period is reasonable given that this is the current time interval allowed under the Interim Bureau plan, and "this interval has not created operational problems."⁴⁴ Furthermore, other commenters supported PCIA's proposal that the Commission may reduce the current 12 month period that a number can be assigned,

⁴² Comments of PCIA at 15.

⁴³ *Id.* at 16.

⁴⁴ Comments of AT&T at 9. *See also* Comments of Bell Atlantic at 3; Comments of Unitel at 1 (suggesting 30 days).

but not working, to six months.⁴⁵ These commenters agreed that a six month interval will not adversely impact the toll-free number assignment or allocation process.

Commenters also supported reducing the "aging" periods for toll-free numbers, provided that these time intervals are not substantially shortened. As AT&T described, a four month aging interval has been in effect since June, 1995, and "it has not resulted in excessive misdialing, unreasonable expense to the new toll free subscriber for wrong number calls or confusion for callers."⁴⁶ Many commenters, however, raised concerns that reducing the time period that a number could remain "suspended" might adversely affect users who use a toll-free number on a seasonal or limited basis and suspend that number when it is not in use. For example, AT&T found that "many customers with seasonal businesses require suspensions up to 9 months."⁴⁷ Similarly, other carriers recommended that this time period should not be reduced beyond the current twelve-month period.⁴⁸ While PCIA continues to believe that a six month period is reasonable, it urges the Commission to ensure that the final policy takes into account seasonal and other limited uses.

⁴⁵ See Comments of Cable and Wireless at 2; Comments of Unitel at 1.

⁴⁶ Comments of AT&T at 10.

⁴⁷ *Id.* at 11.

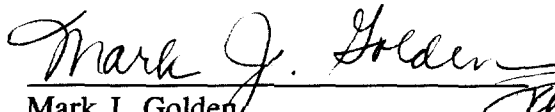
⁴⁸ See, e.g., Comments of Sprint at 6; Comments of U S West at 8.

VI. CONCLUSION

PCIA urges the Commission to avoid intrusive regulation of toll-free resource management. In particular, the Commission should not take steps that would competitively harm the paging industry, such as coercing, directly or indirectly, the use of PIN technology or partitioning access codes. Instead, the Commission should focus on establishing guiding principles to be used by industry bodies. Those guidelines should strive to ensure that toll-free implementation and allocation mechanisms will foster innovation, competition, and the satisfaction of public needs for toll-free resources.

Respectfully submitted,

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November 20, 1995